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HOUSE BILL 904

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Rhonda S. King

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; CHANGING REQUIREMENTS FOR  
PROOF OF FINANCIAL RESPONSIBILITY FOR CONTRACTORS; PRESCRIBING  
ADMINISTRATIVE PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-13-49 NMSA 1978 (being Laws 1967,  
Chapter 199, Section 57, as amended) is amended to read:

"60-13-49. PROOF OF RESPONSIBILITY. --

A. ~~[No]~~ An applicant for a contractor's license or  
for renewal of a contractor's license shall not be issued a  
license until the director determines that he is responsible to  
perform under the individual permit capacity for which he  
furnishes proof of responsibility pursuant to Subsection C of  
this section.

B. Proof of responsibility shall be:

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1 (1) a license bond acceptable to the director  
2 and underwritten by a corporate surety authorized to transact  
3 business in New Mexico; or

4 (2) an agreement of cash collateral assignment  
5 executed with a state or national bank or federally insured  
6 savings association authorized to do business in New Mexico as  
7 trustee, in a form prescribed by the commission. Interest, if  
8 any, accumulating on the cash collateral assignment shall  
9 accrue to the licensee [~~or~~

10 ~~(3) a current financial statement, which shall~~  
11 ~~be filed initially with the license application and filed~~  
12 ~~annually thereafter with the division. The financial statement~~  
13 ~~shall be a current audited financial statement or certified by~~  
14 ~~a financial institution].~~

15 C. Proof of responsibility shall be furnished in  
16 amounts as follows:

17 (1) for a licensee or applicant who permits or  
18 contracts projects singly in New Mexico for a dollar value of  
19 twenty-five thousand dollars (\$25,000) or less, proof of  
20 responsibility in the amount of five hundred dollars (\$500).  
21 This licensee's maximum permit or contract capacity shall be  
22 twenty-five thousand dollars (\$25,000);

23 (2) for a licensee or applicant who permits or  
24 contracts projects singly in New Mexico for a dollar value of  
25 more than twenty-five thousand dollars (\$25,000) but less than

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1 two hundred thousand dollars (\$200,000), proof of  
2 responsibility in the amount of one thousand dollars (\$1,000).  
3 This licensee's maximum permit or contract capacity shall be  
4 two hundred thousand dollars (\$200,000);

5 (3) for a licensee or applicant who permits or  
6 contracts projects singly in New Mexico for a dollar value of  
7 more than two hundred thousand dollars (\$200,000) but less than  
8 one million dollars (\$1,000,000), proof of responsibility in  
9 the amount of two thousand five hundred dollars (\$2,500). This  
10 licensee's maximum permit or contract capacity shall be one  
11 million dollars (\$1,000,000); and

12 (4) for a licensee or applicant who permits or  
13 contracts projects singly in New Mexico for a dollar value of  
14 more than one million dollars (\$1,000,000), proof of  
15 responsibility in the amount of five thousand dollars (\$5,000).  
16 This licensee shall have no maximum permit or contract  
17 capacity.

18 D. Proof of responsibility shall be for the payment  
19 of fines and penalties.

20 E. Proof of responsibility, if a bond, shall be a  
21 continuous form bond on a form prescribed by the commission.  
22 It shall be a condition of the bond that the total aggregate  
23 liability of the surety for all claims shall be limited to the  
24 face amount of the bond irrespective of the number of years the  
25 bond is in force.

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1 F. Proof of responsibility posted by a licensee or  
2 applicant shall be in a form to provide thirty days' written  
3 notice of a cancellation to the division.

4 G. Failure to maintain proof of responsibility for  
5 the period required by law is cause for revocation of the  
6 license or the assessment of an administrative penalty of not  
7 less than five hundred dollars (\$500) or more than five  
8 thousand dollars (\$5,000).

9 ~~[H. No legal action may be maintained on the proof~~  
10 ~~of responsibility unless the action is commenced within twelve~~  
11 ~~months after the case accrues or within twelve months after~~  
12 ~~substantial completion of the project, whichever is earlier.~~

13 ~~F.]~~ H. If a licensee's license bond or cash  
14 collateral assignment is canceled, expires or otherwise becomes  
15 ineffective during the period for which it is required, the  
16 division ~~[shall]~~ may cancel the license upon receiving notice  
17 of such cancellation, expiration or ineffectiveness. The  
18 cancellation of the license shall become effective thirty days  
19 after the date that notice of such action is mailed to the  
20 licensee by the division, unless the licensee provides to the  
21 division within that thirty days proof of responsibility as  
22 required under this section. A person whose license has been  
23 canceled pursuant to this subsection may be renewed or  
24 reinstated provided he complies with all licensing  
25 requirements.

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[~~J~~] I. Contracting or bidding during the period when the license bond or cash collateral assignment is canceled, expired or otherwise ineffective is cause for revocation of the license by the commission. "

Section 2. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2003.

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